

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

IN RE:)	
)	
A&R CHAVIRA, LLC,)	Case No. 23-30067-HCM
)	Chapter 11
Debtor.)	

**DEBTOR’S MOTION TO DISMISS CHAPTER 11 CASE
PURSUANT TO 11 U.S.C. § 1112(b)**

This pleading requests relief that may be adverse to your interests.

If no timely response is filed within twenty-one (21) days from the date of service, the relief requested herein may be granted without a hearing being held.

A timely filed response is necessary for a hearing to be held.

TO THE HONORABLE H. CHRISTOPHER MOTT, UNITED STATES BANKRUPTCY JUDGE:

Comes now A&R Chavira, LLC (“A&R”), Debtor-in-Possession in this Chapter 11 case, through its attorneys of record Miranda & Maldonado, P.C., and files its Motion to Dismiss Chapter 11 Case Pursuant to 11 U.S.C. § 1112(b), and respectfully moves for an order dismissing the case.

I. Factual & Procedural Background

1. A&R filed a *Voluntary Petition for Relief* under Chapter 11 of Title 11, USC, the United States Bankruptcy Code (the “Code”) on **January 24, 2023**, on emergency basis resulting from collection activity taken by certain lenders (the “Petition Date”).

2. A&R is a used car dealership located in El Paso Texas. Since the Petition Date, A&R has attempted to operate as a “Debtor-in-Possession” under §§ 1107 and 1108 of the Code.

II. Applicable Law

3. Under § 1112(b) of the Bankruptcy Code, the Bankruptcy Court shall dismiss a case or convert a case to Chapter 7, whichever is in the best interest of the creditors and the estate, if the Movant establishes cause, unless the Court finds that a Chapter 11 Trustee or Examiner is in the best interests of the creditors and the Estate or the Court finds and specifically identifies unusual circumstances that establish that conversion or dismissal of the case is not in the best interest of creditors and the estate. 11 U.S.C. § 1112(b).

III. Relief Requested

4. A&R has now determined that its business is no longer viable - and a reorganization possible - for the following reasons:

a). As a result of the entry of the following orders terminating automatic stay, A&R no longer has vehicle inventory available with which to fund a plan of reorganization

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i). **NextGear Capital, Inc. —**

02/22/2023	26	Order Regarding (related document(s): 13 Motion for Relief from Stay (<i>14 Day Objection Language</i>) (Filing Fee: \$ 188.00) filed by Creditor NextGear Capital, Inc.
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04/13/2023	57	Order Regarding (related document(s): 47 Motion for Relief from Stay (<i>14 Day Objection Language</i>) (Filing Fee: \$ 188.00) filed by Creditor NextGear Capital, Inc.
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ii). **Vehicle Acceptance Corporation -**

03/15/2023	43	Order Regarding (related document(s): 27 Motion for Relief from Stay (30 Day Waiver Language) (<i>14 Day Objection Language</i>) (Filing Fee: \$ 188.00) filed by Creditor Vehicle Acceptance
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		Corporation.
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Thus, there are no vehicles remaining in inventory which could be sold to generate revenues with which to fund a plan of reorganization.

b). Moreover, the Debtor's casualty insurance coverage expired on April 14, 2023 –

		CERTIFICATE OF LIABILITY INSURANCE				DATE (MM/DD/YYYY) 03/01/2023	
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS							
INSR LTR	TYPE OF INSURANCE	ADJL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> Garage Liab			MP0042043000088	04/14/2022	04/14/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 300,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Other than Auto Agg \$ 600,000
CERTIFICATE HOLDER				CANCELLATION			
US Trustee NOTICE ONLY 615 East Houston Street Ste533 San Antonio TX 78205				SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 			

The Debtor does not have the funds on hand, or forthcoming, to pay for insurance renewal and is not permitted to operate without insurance coverage.

5. A&R does not believe that a conversion to Chapter 7 would be in the best interests of the Estate. There are no assets, tangible or intangible, which a Chapter 7 Trustee could administer. Moreover, after April 14, 2023, there will not be insurance coverage on any property of Estate, to the extent any remains.

6. A&R submits that dismissal is in the best interests of creditors.

7. A&R requests that the order dismissing the case provide for payment of any Quarterly Fees owed to the Debtor pursuant to 28 U.S.C. § 1930.

WHEREFORE, A&R Chavira, LLC prays that the Court enter an order dismissing the Chapter 11 Case, and for further relief as is equitable.

Respectfully submitted,

MIRANDA & MALDONADO, P.C.

/s/ Carlos A. Miranda
Carlos A. Miranda, Esq.
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Attorneys for A&R Chavira, LLC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Dismiss Chapter 11 Case, was served upon the Parties on the attached service by United States Mail, first class, postage prepaid, and/or by electronic means for all Pacer system participants on this the 17th day of April 2023.

/s/ Carlos A. Miranda
Carlos A. Miranda, Esq.

Label Matrix for local noticing
0542-3
Case 23-30067-hcm
Western District of Texas
El Paso
Mon Apr 17 09:34:39 CDT 2023

U.S. BANKRUPTCY COURT
511 E. San Antonio Ave., Rm. 444
EL PASO, TX 79901-2417

A&R Chavira, LLC
6900 Gateway Blvd. East
El Paso, TX 79915-1105

Alcala CPA
9440 Viscount Blvd., Ste. 111
El Paso, TX. 79925-7054

United States Trustee (SMG311)
U.S. Trustee's Office
615 E. Houston, Suite 533
P.O. Box 1539
San Antonio, TX 78295-1539

Alexander Chavira
7165 Alameda Ave.
El Paso, TX. 79915

(p)LINEBARGER GOGGAN BLAIR & SAMPSON LLP
ATTN DON STECKER
112 E PECAN
SUITE 2200
SAN ANTONIO TX 78205-1588

City of El Paso
c/o Don Stecker
Weston Centre, 112 E. Pecan St., Ste. 22
San Antonio, TX 78205-1512

Internal Revenue Service (IRS)
Centralized Insolvency Office
P. O. Box 7346
Philadelphia, PA 19101-7346

Libertas Funding, LLC
411 West Putnam Ave
Suite 220
Taftville, CT 06380

NextGear Capital, Inc.
c/o Christopher V. Arisco
Padfield & Stout, LLP
420 Throckmorton Street, Suite 1210
Fort Worth, Texas 76102-3792

Nextgear Capital, Inc.
11799 North College Ave.
Carmel, IN 46032-5605

Pete Borrego
7000 Industrial Ave.
El Paso, TX. 79915-1110

Scooter Outlet
6900 Gateway Blvd. East
El Paso, TX. 79915-1105

Small Business Administration
10737 Gateway West, #300
El Paso, TX. 79935-4910

(p)LOAN SERVICING
LOAN SUPPORT
PO BOX 5961
MADISON WI 53705-0961

Suncoast Funding
141 NE 3rd Avenue
Suite 100
Miami, FL 33132-2207

(p)TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
REVENUE ACCOUNTING DIV - BANKRUPTCY SECTION
PO BOX 13528
AUSTIN TX 78711-3528

Texas Workforce Commission
TWC Building - Regulatory Integrity Divi
101 East 15th Street
Austin, TX 78778-0001

United States Attorney General
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530-0009

United States Attorney, Civil Process Clerk
Department of Justice
601 N. W. Loop 410, Suite 600
San Antonio, TX 78216-5512

United States Trustee - EP12
U.S. Trustee's Office
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P.O. Box 1539
San Antonio, TX 78295-1539

United States Trustee's Office
615 E. Houston, Ste. 533
P.O. Box 1539
San Antonio, TX 78295-1539

Vehicle Acceptance Corporation
901 Main Street, Ste. 3450
Dallas, TX. 75202-3752

WESTLAKE FLOORING COMPANY LLC
c/o James R. Liebler, II, Esquire
Liebler, Gonzalez & Portuondo
44 West Flagler St., Suite 2500
Miami, FL 33130-1817

Westlake Flooring Company, LLC
4751 Wilshire Blvd.
Los Angeles, CA 90010-3827

White Sands Federal Credit Union
P.O. Box 99
Las Cruces, NM 88004-0099

Carlos A. Miranda
Miranda & Maldonado, P.C.
5915 Silver Springs
Bldg. 7
El Paso, TX 79912-4126

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

City of El Paso
c/o Don Stecker
112 E. Pecan St. Suite 2200
San Antonio, TX 78205

State Farm Bank
Attn: Bankruptcy
P.O. Box 2327
Bloomington, IL 61702

Texas Comptroller of Public Accounts
Revenue Accounting Div - Bankruptcy Sect
P.O. Box 13528
Austin, TX 78711-3528

End of Label Matrix
Mailable recipients 27
Bypassed recipients 0
Total 27